

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

JERRAL W. JONES

Plaintiff

VS.

ALEXANDER DAVIS and CYNTHIA DAVIS
f/k/a CYNTHIA DAVIS-SPENCER

Defendants,

CIVIL ACTION No. 5:23-cv-00032-RWS

JURY TRIAL DEMANDED

DEFENDANT'S VERIFIED MOTION FOR CONTINUANCE

NOW COMES Defendant, CYNTHIA DAVIS f/k/a CYNTHIA DAVIS-SPENCER (“Cynthia”), in the above-styled and numbered cause and files this *Defendant's Verified Motion for Continuance* requesting the Court to continue this cause from its present trial setting for the following reasons:

I.

The above-referenced case is set for hearing on June 20, 2024 at 2:00 o'clock p.m.

II.

This continuance is sought by Defendant so that justice may be done, and not for purposes of delay. The continuance is requested for the following reasons:

1. On June 4, 2024, this Court entered an Order on Jerral W. Jones' and the Dismissed Defendants' Motion for Sanctions for Destruction of Evidence Against Alexandra Davis and Cynthia Davi f/k/a Cynthia Davis-Spencer (“Motion for Sanctions”) wherein the Court set a hearing on the Motion for Sanctions for June 20, 2024 (Dkt 121).
2. Counsel for Cynthia, Kris Hayes, has a jury trial commencing on June 20, 2024 at 9:00am

in the 254th District Court of Dallas County in Cause No. DF-22-11734, *In the Matter of the Marriage of Patel* ("Patel Action"), *See Exhibit A.*

3. HB 1182and 2384 which references Texas Gov't Code 71.035(a) has increased the information that courts must publish regarding their clearance rate of cases. As a result, many courts at the county and district levels are denying requests for a continuance. A motion for continuance was previously filed in the Patel Action by opposing counsel and denied by the Court on May 16, 2024. The opposing counsel again reargued their request on June 5, 2024 and the Court again denied the request.
4. As a result of the court's denial of the continuance requests and the representation made by the Court, the parties will be selecting a jury on the morning of June 20, 2024 and Defendant's counsel will be in trial at the time this hearing is scheduled to occur.
5. Defendant will be substantially prejudiced by the unavailability of her counsel, as Defendant's counsel is necessary to properly defend against Plaintiff's motion. The conflicting setting is due to no fault of Defendant and Plaintiff will not be prejudiced by a brief continuance. No other attorney is available to appear on Defendant's behalf.

III.

WHEREFORE, Defendant, CYNTHIA DAVIS f/k/a CYNTHIA DAVIS-SPENCER, respectfully requests that this cause be removed from its present hearing setting of June 20, 2024 at 2:00 o'clock p.m. and be reset to a date and time where all parties and counsel are available.

Respectfully Submitted,

BALEKIAN HAYES, PLLC

/s/ Kris Hayes.

KRIS HAYES

State Bar No. 24031719

kris@bh-pllc.com

4144 N. Central Expressway, Suite 1200

Dallas, Texas 75204

(214) 828-2800 Telephone

(214) 827-9671 Facsimile

ATTORNEYS FOR DEFENDANT

CYNTHIA DAVIS f/k/a CYNTHIA DAVIS

SPENCER

CERTIFICATE OF SERVICE

On June 12, 2024, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Eastern District of Texas, using the electronic case filing system of the court. I hereby certify that I will serve all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Kris Hayes.

KRIS HAYES

CERTIFICATE OF CONFERENCE

On June 11, 2024, I attempted to contact all counsel for Plaintiff regarding the above Verified Motion for Continuance and Plaintiff has indicated that they are not able to state their position at this time. Due to the time limitations involved, Defendant files this motion for determination by the Court under the belief that Plaintiff is opposed.

On June 11, 2024, I contacted counsel for Defendant, Jay Gray regarding the above Verified Motion for Continuance and Defendant has indicated that she is NOT opposed to the continuance.

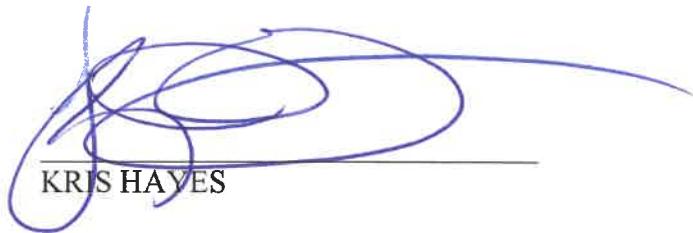
/s/ Kris Hayes.

KRIS HAYES

VERIFICATION

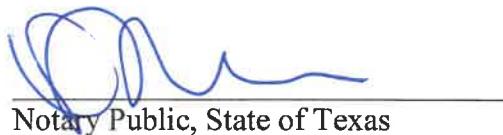
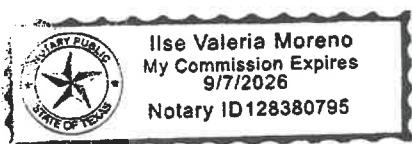
STATE OF TEXAS §
COUNTY OF DALLAS §
§

BEFORE ME, the undersigned authority, personally appeared KRIS HAYES, who stated, upon oath, that the statements made in the foregoing instrument are true and correct.



KRIS HAYES

SUBSCRIBED AND SWORN TO BEFORE ME by the said KRIS HAYES on the 11th day of June 2024.



Ilse Valeria Moreno
Notary Public, State of Texas

Exhibit

A

Case Information

DF-22-11734 | MEHULKUMAR PATEL vs. BINAKUMARI PATEL

Case Number	Court	Judicial Officer
DF-22-11734	254th District Court	BROWN, KIM
File Date	Case Type	Case Status
08/08/2022	DIVORCE WITH CHILDREN	OPEN

Party

RESPONDENT
PATEL, BINAKUMARI M.

Active Attorneys ▾
Lead Attorney
MCALL, JOHN PAUL
Retained

PETITIONER
PATEL, MEHULKUMAR B.

Active Attorneys ▾
Lead Attorney
HAYES, KRIS BALEKIAN
Retained

Events and Hearings

08/01/2022 ISSUE CITATION
08/08/2022 NEW CASE FILED (OCA) - FAMILY
08/08/2022 ORIGINAL PETITION
08/18/2022 CITATION▼
Served 08/29/2022 Anticipated Server ESERVE Anticipated Method Actual Server PRIVATE PROCESS SERVER
Returned 08/31/2022 Comment BINAKUMARI M. PATEL
08/31/2022 RETURN OF SERVICE ▼ Comment EXECUTED CITATION - BINAKUMARI M PATEL
03/10/2023 *DISMISSAL FOR WANT OF PROSECUTION ▼ Judicial Officer BROWN, KIM Hearing Time 9:00 AM Cancel Reason REQUESTED BY ATTORNEY/PRO SE
05/12/2023 *DISMISSAL FOR WANT OF PROSECUTION ▼ Judicial Officer BROWN, KIM Hearing Time 9:00 AM Cancel Reason REQUESTED BY ATTORNEY/PRO SE
06/09/2023 *DISMISSAL FOR WANT OF PROSECUTION ▼ Judicial Officer BROWN, KIM

Hearing Time
9:00 AM

Cancel Reason
REQUESTED BY ATTORNEY/PRO SE

06/15/2023 NOTICE OF APPEARANCE

06/15/2023 MOTION - CONTINUANCE

06/15/2023 NON-SIGNED PROPOSED ORDER/JUDGMENT ▾

Comment
ORDER ON MOTION FOR CONTINUANCE

06/20/2023 PROVE UP ▾

Original Type
PROVE UP

Judicial Officer(s)
BROWN, KIM, BROWN, KIM

Hearing Time
8:30 AM

Result
CASE CALLED

06/20/2023 ORDER - GRANTING CONTINUANCE

09/08/2023 *DISMISSAL FOR WANT OF PROSECUTION ▾

Judicial Officer
BROWN, KIM

Hearing Time
9:00 AM

Cancel Reason
REQUESTED BY ATTORNEY/PRO SE

10/23/2023 PRETRIAL ▾

Original Type
PRETRIAL

Hearing Time
2:30 PM

Result
HEARING HELD

Parties Present▲
PETITIONER

ATTORNEY: HAYES, KRIS BALEKIAN

RESPONDENT

ATTORNEY: MCCALL, JOHN PAUL

10/23/2023 JUDGE DOCKET ENTRY ▾

Comment

PRETRIAL ORDER SIGNED

10/23/2023 ORDER - PRETRIAL ▾

Comment

SCFHEDULING ORDER

11/30/2023 RULE 11 ▾

Comment

RE: INVENTORIES & APPRAISEMENTS

01/31/2024 E-SERVED COPY OF ORDER ▾

Comment

E-SERVE COVER LETTER - ORDER - PRETRIAL

02/19/2024 MOTION - CONFER WITH CHILD

03/18/2024 PRETRIAL ▾

Original Type

PRETRIAL

Hearing Time

1:30 PM

Result

HEARING HELD

Parties Present ▾

PETITIONER

ATTORNEY: HAYES, KRIS BALEKIAN

RESPONDENT

ATTORNEY: MCCALL, JOHN PAUL

03/18/2024 ORDER - PRETRIAL CONFERENCE

04/09/2024 MOTION - WITHDRAW ATTORNEY ▾

Comment

WITHDRAW AS ATTORNEY IN CHARGE

04/09/2024 NON-SIGNED PROPOSED ORDER/JUDGMENT ▾

Comment ORDER ON MOTION TO WITHDRAW
04/11/2024 MOTION - SUBSTITUTION OF COUNSEL
04/11/2024 NON-SIGNED PROPOSED ORDER/JUDGMENT ▾
Comment ORDER SUBSTITUTION OF COUNSEL
04/18/2024 JUDGE DOCKET ENTRY ▾
Comment Hardcopy of order granting substitution signed
04/18/2024 ORDER - SUBSTITUTE SERVICE ▾
Comment ORDER ON WIFE'S MOTION FOR SUBSTITUTION OF COUNSEL
04/18/2024 E-SERVED COPY OF ORDER ▾
Comment E-SERVE COVER LETTER - ORDER ON WIFE'S MOTION FOR SUBSTITUTION OF COUNSEL
04/18/2024 MOTION - CONTINUANCE
04/19/2024 E-SERVED COPY OF ORDER ▾
Comment E-SERVE COVER LETTER - ORDER ON WIFE'S MOTION FOR SUBSTITUTION OF COUNSEL
04/26/2024 COUNTER CLAIM
04/26/2024 JURY DEMAND
05/01/2024 NOTICE OF HEARING / FIAT ▾
Comment M/ CONTINUANCE
05/09/2024 NOTICE OF INTENT ▾
Comment TO TAKE ORAL DEPOSITION
05/09/2024 DISCOVERY ▾
Comment NOTICE OF DISCOVERY SUBPOENA TO A NONPARTY

05/14/2024 NOTICE OF HEARING / FIAT ▾

Comment

TEMPORARY ORDERS HEARING

05/15/2024 MOTION - TEMPORARY ORDERS ▾

Comment

AMENDED

05/15/2024 NOTICE OF HEARING / FIAT ▾

Comment

Notice of Hearing

05/16/2024 MOTION HEARING ▾

Original Type

MOTION HEARING

Judicial Officer

BROWN, KIM

Hearing Time

1:00 PM

Result

HEARING HELD

Comment

ZOOM

Parties Present ▾

PETITIONER

ATTORNEY: HAYES, KRIS BALEKIAN

RESPONDENT: PATEL, BINAKUMARI M.

ATTORNEY: MCCALL, JOHN PAUL

05/16/2024 RULE 11 ▾

Comment

RULE 11 AGREEMENT

05/16/2024 NON-SIGNED PROPOSED ORDER/JUDGMENT ▾

Comment

AGREED ORER M/CONTINUANCE

05/20/2024 RULE 11 ▾

Comment RULE 11 AGREEMENT
05/21/2024 MOTION - QUASH ▾ Comment QUASH SUBPOENA DUCES TECUM & FOR PROTECTIVE ORDER
05/24/2024 RULE 11
05/28/2024 NOTICE OF HEARING / FIAT ▾ Comment NOTICE OF HEARING
05/29/2024 RETURN OF SERVICE ▾ Comment EXECUTED ATTORNEY ISSUED SUBPOENA HINA PATEL
05/29/2024 RETURN OF SERVICE ▾ Comment EXECUTED ATTORNEY ISSUED SUBPOENA - CHHOTUBHAI PATEL
05/29/2024 MOTION - AMEND MISC ▾ Comment SCHEDULING ORDER RESET BENCH TRIAL TO JRY TRIAL DOCKET
05/29/2024 DISCOVERY ▾ Comment PETITIONER'S REQUIRED PRE-TRIAL DISCLOSURES
05/29/2024 DISCOVERY ▾ Comment PETITIONER'S FIRST AMENDED PRETRIAL DISCLOSURES
05/30/2024 RESPONSE ▾ Comment RESPONDENT WIFE REQUIRED PRETRIAL DISCLOSURES
05/31/2024 MOTION - LEAVE ▾ Comment M/LEAVE DEPOSITION

05/31/2024 NOTICE OF HEARING / FIAT
05/31/2024 NOTICE OF HEARING / FIAT
05/31/2024 MOTION - AMEND MISC ▾
Comment SECOND AMEND REQUIRED PRETRIAL DISCLOSURES
06/04/2024 MISCELLANOUS EVENT ▾
Comment RESPONDENT AND OBJECTIONS TO M/QUEUASH
06/05/2024 TEMPORARY ORDERS HEARING ▾
Original Type TEMPORARY ORDERS HEARING
Judicial Officer BEDARD, LORNA
Hearing Time 9:00 AM
Result HEARING HELD
Comment ADD M/QUASH *& M/LEAVE
Parties Present▲ PETITIONER ATTORNEY: HAYES, KRIS BALEKIAN
RESPONDENT ATTORNEY: MCCALL, JOHN PAUL
06/05/2024 MOTION HEARING ▾
Original Type MOTION HEARING
Judicial Officer BROWN, KIM
Hearing Time 1:00 PM
Result HEARING HELD
Comment ZOOM
06/05/2024 ORDER - DENY ▾

Comment

M/LEAVE OF COURT TO TAKE ORAL DEPOSITION

06/05/2024 ORDER - QUASH

06/05/2024 DOCKET SHEET

06/20/2024 JURY TRIAL ▾

Judicial Officer
BROWN, KIM

Hearing Time
9:00 AM

06/21/2024 JURY TRIAL ▾

Judicial Officer
BROWN, KIM

Hearing Time
9:00 AM